

## Federal Acquisition Regulation

## 41.103

are installed, owned, operated, and maintained by the utility supplier (see Termination liability).

*Delegated agency* means an agency that has received a written delegation of authority from GSA to contract for utility services for periods not exceeding ten years (see 41.103(b)).

*Federal Power and Water Marketing Agency* means a Government entity that produces, manages, transports, controls, and sells electrical and water supply service to customers.

*Franchise territory* means a geographical area that a utility supplier has a right to serve based upon a franchise, a certificate of public convenience and necessity, or other legal means.

*Intervention* means action by GSA or a delegated agency to formally participate in a utility regulatory proceeding on behalf of all Federal executive agencies.

*Multiple service locations* means the various locations or delivery points in the utility supplier's service area to which it provides service under a single contract.

*Rates* may include rate schedules, riders, rules, terms and conditions of service, and other tariff and service charges, e.g., facilities use charges.

*Separate contract* means a utility services contract (other than a GSA areawide contract, an Authorization under an areawide contract, or an interagency agreement) to cover the acquisition of utility services.

*Termination liability* means a contingent Government obligation to pay a utility supplier the unamortized portion of a connection charge and any other applicable nonrefundable service charge as defined in the contract in the event the Government terminates the contract before the cost of connection facilities has been recovered by the utility supplier (see "Connection charge").

*Utility service* means a service such as furnishing electricity, natural or manufactured gas, water, sewerage, thermal energy, chilled water, steam, hot water, or high temperature hot water. The application of part 41 to other services (e.g., rubbish removal, snow removal) may be appropriate when the

acquisition is not subject to the Service Contract Act of 1965 (see 37.107).

### 41.102 Applicability.

(a) Except as provided in paragraph (b) of this section, this part applies to the acquisition of utility services for the Government, including connection charges and termination liabilities.

(b) This part does not apply to—

(1) Utility services produced, distributed, or sold by another Federal agency. In those cases, agencies shall use interagency agreements (see 41.206);

(2) Utility services obtained by purchase, exchange, or otherwise by a Federal power or water marketing agency incident to that agency's marketing or distribution program;

(3) Cable television (CATV) and telecommunications services;

(4) Acquisition of natural or manufactured gas when purchased as a commodity;

(5) Acquisition of utilities services in foreign countries;

(6) Acquisition of rights in real property, acquisition of public utility facilities, and on-site equipment needed for the facility's own distribution system, or construction/maintenance of Government-owned facilities; or

(7) Third party financed shared-savings projects authorized by 42 U.S.C. 8287. However, agencies may utilize part 41 for any energy savings or purchased utility service directly resulting from implementation of a third party financed shared-savings project under 42 U.S.C. 8287 for periods not to exceed 25 years.

### 41.103 Statutory and delegated authority.

(a) *Statutory authority.* (1) The General Services Administration (GSA) is authorized by 40 U.S.C. 501 to prescribe policies and methods governing the acquisition and supply of utility services for Federal agencies. This authority includes related functions such as managing public utility services and representing Federal agencies in proceedings before Federal and state regulatory bodies. GSA is authorized by 40 U.S.C. 501 to contract for utility services for periods not exceeding ten years.